

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK**

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CONSTITUTION PIPELINE	:	
COMPANY, LLC	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
v.	:	
	:	Case No. <u>1:14-cv-02112-NAM-RFT</u>
A PERMANENT EASEMENT FOR 1.06	:	
ACRES AND TEMPORARY EASEMENT	:	<b>Electronically Filed</b>
FOR 0.99 ACRES IN AFTON, CHENANGO	:	
COUNTY, NEW YORK, TAX PARCEL	:	
NUMBER 290.-1-11.1,	:	
STEPHEN J. GABALY, et al.	:	
	:	
Defendants.	:	
	:	

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**ORDER**

AND NOW, this 18<sup>th</sup> day of February, 2015, upon consideration of Plaintiff's Omnibus Motion for Preliminary Injunction for Possession of Rights of Way by February 16, 2015 Pursuant to the Natural Gas Act and Federal Rules of Civil Procedure 71.1 and 65, and the documents and arguments submitted in reference thereto, the Motion is hereby GRANTED and:

- (a) Upon filing the bond required below, beginning February 16, 2015, Plaintiff Constitution Pipeline Company, LLC ("Constitution") is granted access to, possession of and entry to the following Rights of Way:
  - 1. A permanent right of way and easement, containing 1.06 acres, as described as "Area of Permanent Right of Way" in Exhibit A attached hereto, for the purpose of constructing, operating, maintaining, altering, repairing, changing the size of, replacing and removing a pipeline and all related equipment and appurtenances thereto (including but not limited to meters, fittings, tie-overs, valves, cathodic protection equipment and launchers and receivers) for the transportation of natural gas, or its byproducts, and other substances as approved by the Federal Energy Regulatory Commission pursuant to the Natural Gas Act and the Order of the Federal Energy Regulatory Commission dated December 2, 2014,

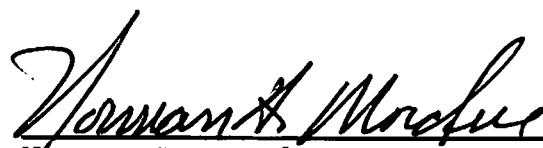
Docket Nos. CP13-499-000 and CP13-502-000, 149 FERC ¶ 61,199 (2014); together with all rights and benefits necessary or convenient for the full enjoyment or use of the right of way and easement. Defendants shall have a right of ingress and egress across the permanent right of way, but Defendants shall not build any permanent structures on said permanent right of way or any part thereof, shall not change the grade of said permanent right of way, or any part thereof, shall not plant trees on said permanent right of way, or any part thereof, or use said permanent right of way or any part thereof for a road, or use said permanent right of way or any part thereof in such a way as to interfere with Plaintiff's immediate and unimpeded access to said permanent right of way, or otherwise interfere with Plaintiff's lawful exercise of any of the rights herein granted without first having obtained Plaintiff's approval in writing, and Defendants will not permit others to do any of said acts without first having obtained Plaintiff's approval in writing, except that the landowner may construct a single driveway that crosses the permanent right of way perpendicularly after providing reasonable notice to Plaintiff provided that Defendants do not excavate or change the grade of the permanent right of way during construction of said driveway. Plaintiff shall have the right to cut the driveway if necessary to access the pipeline, but will restore the driveway to its original condition. Within the permanent right of way, Plaintiff shall also have the right from time to time at no additional cost to Defendants to cut and remove all trees including trees considered as a growing crop, all undergrowth and any other obstructions that may injure, endanger or interfere with the construction and use of said pipeline and all related equipment and appurtenances thereto.

2. Temporary easement of 0.99 acres, as described as "Area of Temporary Workspace" in Exhibit A attached hereto, for use during the pipeline construction and restoration period only for the purpose of ingress, egress and regress and to enter upon, clear off and use for construction and all activities required by the Order of the Federal Energy Regulatory Commission dated December 2, 2014, Docket Nos. CP13-499-000 and CP13-502-000, 149 FERC ¶ 61,199 (2014).

(b) Constitution shall post a bond in the amount of \$10,000.00 as security for the payment of just compensation to Defendants.

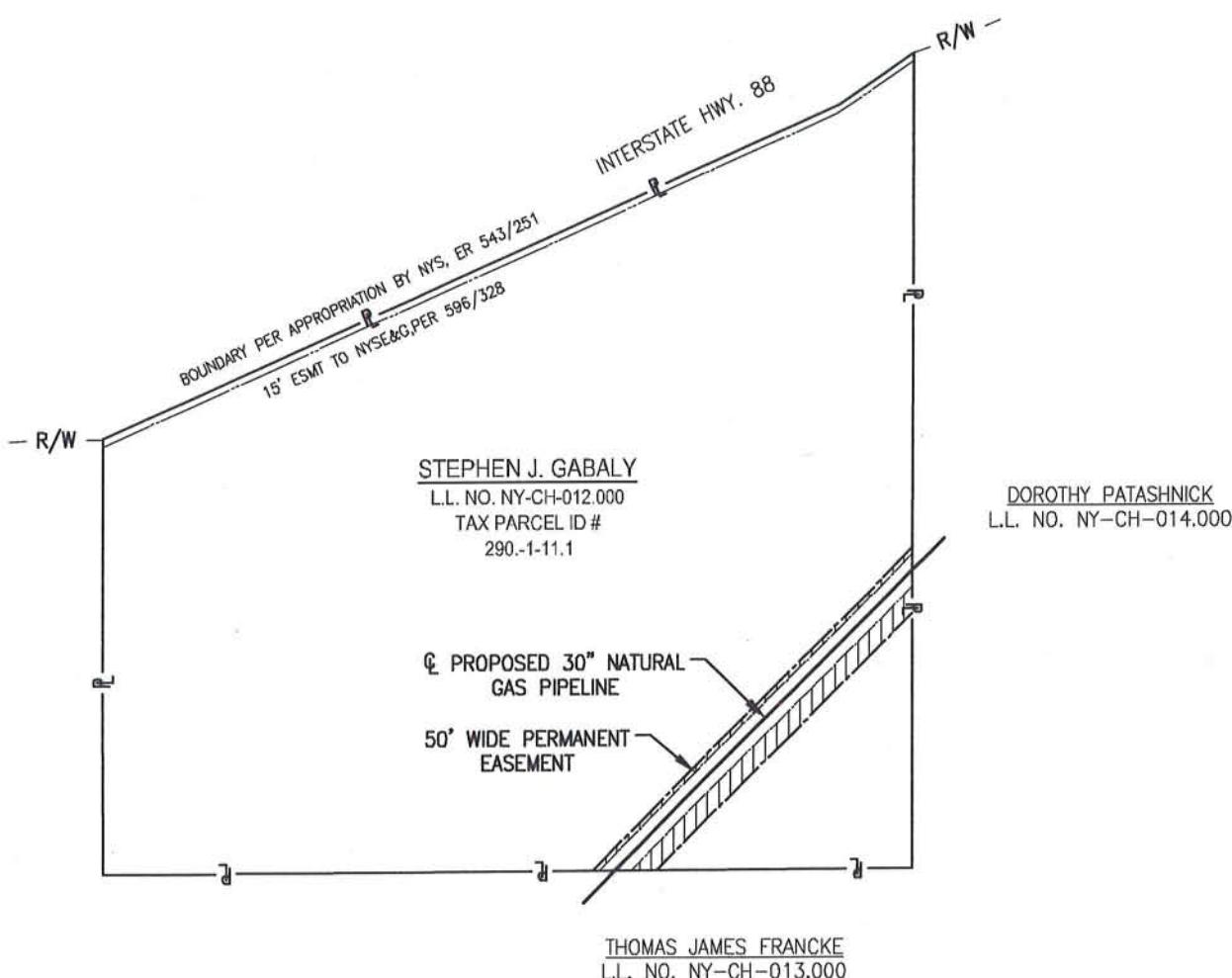
(c) Constitution shall record this Order in the County Clerk's Office of Chenango County, New York.

IT IS SO ORDERED.



Norman A. Mordue  
Senior U.S. District Judge

**EXHIBIT A**

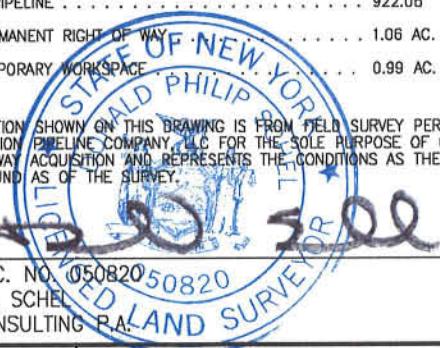
NOTES:

1. BEARINGS SHOWN ARE BASED ON NAD 83, UTM ZONE 18N.

2. LENGTH OF PIPELINE ..... 922.06'

AREA OF PERMANENT RIGHT OF WAY ..... 1.06 AC. AREA OF TEMPORARY WORKSPACE ..... 0.99 AC. 

THE INFORMATION SHOWN ON THIS DRAWING IS FROM FIELD SURVEY PERFORMED  
BY CONSTITUTION PIPELINE COMPANY, LLC FOR THE SOLE PURPOSE OF CREATING  
A RIGHT OF WAY ACQUISITION AND REPRESENTS THE CONDITIONS AS THEY EXIST  
ON THE GROUND AS OF THE SURVEY.



DATE: 7/30/14

400

800

1200

SCALE IN FEET

CONSTITUTION PIPELINE COMPANY, LLC  
PROPOSED 30" NATURAL GAS PIPELINE  
CROSSING PROPERTY OF  
STEPHEN J. GABALY  
TOWN OF AFTON  
CHENANGO COUNTY, NEW YORK

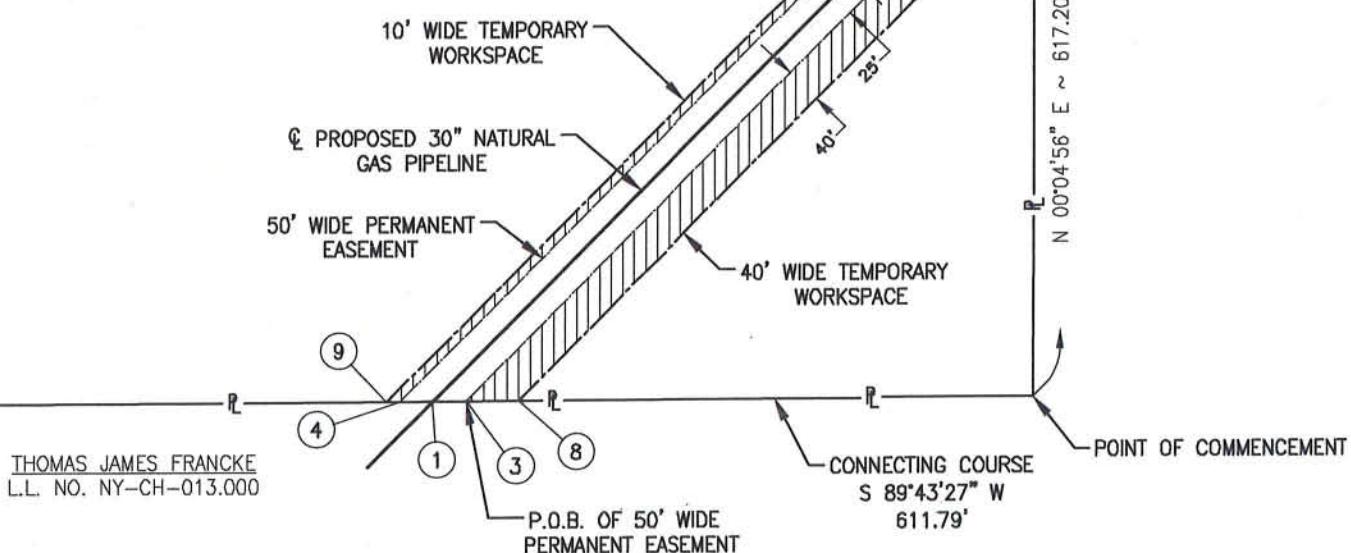


CONSTITUTION PIPELINE

DRAWING NO.	REFERENCE TITLE	CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF STEPHEN J. GABALY TOWN OF AFTON CHENANGO COUNTY, NEW YORK									
26-03-10/0001-45	ALIGNMENT SHEET	DRAWN BY: GIE	DATE: 1-31-14	ISSUED FOR BID:	SCALE: 1"-400'						
A	02-04-14	GIE	ISSUED FOR CONDEMNATION APPROVAL	W.O. NO. 1110415	CHK	APP	DRAWN BY: GIE	DATE: 02-04-14	ISSUED FOR CONSTRUCTION:		
B	06-18-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			CHECKED BY: KG	DATE: 02-04-14			
C	07-08-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: DPS	DATE: 07-28-14	DRAWING NUMBER: 26-06-85/44.84-1-0	SHEET 1	
D	07-22-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			WO: 1110415				OF 5
E	07-29-14	GIE	APPROVED	1110415							

STEPHEN J. GABALY  
L.L. NO. NY-CH-012.000  
TAX PARCEL ID #  
290-1-11.1

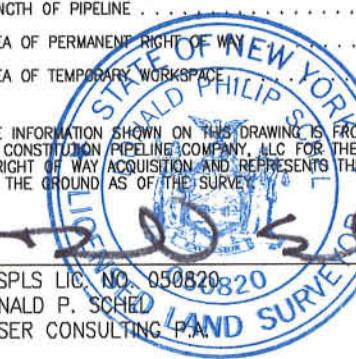
DOROTHY PATASHNICK  
L.L. NO. NY-CH-014.000



NOTES:

1. BEARINGS SHOWN ARE BASED ON NAD 83, UTM ZONE 18N.
2. LENGTH OF PIPELINE ..... 922.06'
3. AREA OF PERMANENT RIGHT OF WAY ..... 1.06 AC.
4. AREA OF TEMPORARY WORKSPACE ..... 0.99 AC.

THE INFORMATION SHOWN ON THIS DRAWING IS FROM FIELD SURVEY PERFORMED  
BY CONSTITUTION PIPELINE COMPANY, LLC FOR THE SOLE PURPOSE OF CREATING  
A RIGHT OF WAY ACQUISITION AND REPRESENTS THE CONDITIONS AS THEY EXIST  
ON THE GROUND AS OF THE SURVEY.



NYSPLS LIC. NO. 050820  
DONALD P. SCHER  
MASER CONSULTING P.A.

DATE: 7/30/14

200 400 600

SCALE IN FEET

DRAWING NO.		REFERENCE TITLE		CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF STEPHEN J. GABALY TOWN OF AFTON CHENANGO COUNTY, NEW YORK								CONSTITUTION PIPELINE	
26-03-10/0001-16		ALIGNMENT SHEET		W.O. NO.	CHK.	APP.	DRAWN BY: <b>GIE</b>	DATE: <b>1-31-14</b>	ISSUED FOR BID:	SCALE: <b>1"=200'</b>			
NO.	DATE	BY	REVISION DESCRIPTION				CHECKED BY: <b>KG</b>	DATE: <b>02-04-14</b>	ISSUED FOR CONSTRUCTION:				
A	02-04-14	GIE	ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: <b>DPS</b>	DATE: <b>07-28-14</b>	DRAWING NUMBER: <b>26-06-85/44.84-2-0</b>	SHEET <b>2</b>			
B	08-18-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415									
C	07-08-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415									
D	07-22-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415									
E	07-29-14	GIE	APPROVED	1110415									

¢ PROPOSED 30" NATURAL GAS PIPELINE

<u>POINT#</u>	<u>BEARING</u>	<u>DISTANCE</u>
1-2	N 44°39'10" E	922.06

50' WIDE PERMANENT EASEMENT

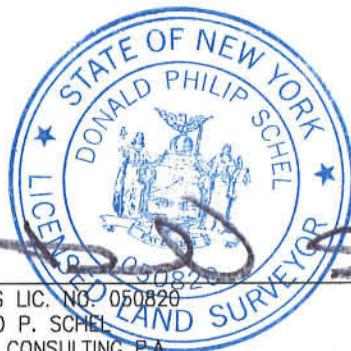
<u>POINT#</u>	<u>BEARING</u>	<u>DISTANCE</u>
3-4	S 89°43'27" W	70.62'
4-5	N 44°39'10" E	972.38'
5-6	S 00°04'56" W	71.25'
6-3	S 44°39'10" W	871.74'

40' WIDE TEMPORARY WORKSPACE

<u>POINT#</u>	<u>BEARING</u>	<u>DISTANCE</u>
3-6	N 44°39'10" E	871.74'
6-7	S 00°04'56" W	57.00'
7-8	S 44°39'10" W	791.24'
8-3	S 89°43'27" W	56.50'

10' WIDE TEMPORARY WORKSPACE

<u>POINT#</u>	<u>BEARING</u>	<u>DISTANCE</u>
4-9	S 89°43'27" W	14.13'
9-10	N 44°39'10" E	992.50'
10-5	S 00°04'56" W	14.25'
5-4	S 44°39'10" W	972.38'



NYSPLS LIC. NO. 050820  
DONALD P. SCHEL  
MASER CONSULTING P.A.

DATE:

*Schel 7/30/14*

CONSTITUTION PIPELINE COMPANY, LLC  
PROPOSED 30" NATURAL GAS PIPELINE  
CROSSING PROPERTY OF  
STEPHEN J. GABALY  
TOWN OF AFTON  
CHENANGO COUNTY, NEW YORK



CONSTITUTION PIPELINE

DRAWING NO.			REFERENCE TITLE				CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF STEPHEN J. GABALY TOWN OF AFTON CHENANGO COUNTY, NEW YORK					
26-03-70/0001-46			ALIGNMENT SHEET									
NO.	DATE	BY	REVISION DESCRIPTION		W.O. NO.	CHK.	APP.	DRAWN BY:	GIE	DATE: 1-31-14	ISSUED FOR BID:	SCALE: NONE
A	02-04-14	GIE	ISSUED FOR CONDEMNATION APPROVAL		1110415			CHECKED BY:	KG	DATE: 02-04-14	ISSUED FOR CONSTRUCTION:	
B	06-18-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL		1110415			APPROVED BY:	DPS	DATE: 07-28-14	DRAWING NUMBER:	26-06-85/44.84-3-0
C	07-08-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL		1110415							
D	07-22-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL		1110415			WO:	1110415			
E	07-29-14	GIE	APPROVED		1110415							

DESCRIPTION FOR THE PROPOSED 50' PERMANENT EASEMENT  
ACROSS PROPERTY OF  
STEPHEN J. GABALY  
TAX PARCEL ID # 290-1-11.1  
INSTRUMENT # 2009-00000170  
LOCATED IN TOWN OF AFTON  
CHENANGO COUNTY, NEW YORK

Commencing at a point in the East boundary line of the aforementioned parcel, said point being the Southeast corner and Point of Commencement; thence along the South boundary line of said parcel of land S 89°43'27" W a distance of 611.79 feet to a point, said point being the Point of Beginning;

Thence continuing along said South boundary line, S 89°43'27" W a distance of 70.62 feet to a point;

Thence through the lands of Stephen J. Gabaly, N 44°39'10" E a distance of 972.38 feet to a point located in the division line between lands of Dorothy Patashnick to the East and Stephen J. Gabaly to the West;

Thence along said division line, S 00°04'56" W a distance of 71.25 feet to a point;

Thence through the lands of Stephen J. Gabaly, S 44°39'10" W a distance of 871.74 feet to the Point of Beginning containing 1.06 acres.

All this is more fully shown on Drawing No. 26-06-85/44.84-1 thru 5 entitled "Constitution Pipeline Company, LLC – Property of Stephen J. Gabaly – Located in Town of Afton, – Chenango County, New York" dated July 29, 2014.



NYSPLS LIC. NO. 050820  
DONALD P. SCHEL  
MASER CONSULTING P.A.

DATE:

7/30/14

DRAWING NO.			REFERENCE TITLE			CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF STEPHEN J. GABALY TOWN OF AFTON CHENANGO COUNTY, NEW YORK					
26-03-70/0001-46			ALIGNMENT SHEET								
NO.	DATE	BY	REVISION DESCRIPTION	W.O. NO.	CHK.	APP.	DRAWN BY: <b>GIE</b>	DATE: <b>1-31-14</b>	ISSUED FOR BID:	SCALE: <b>NONE</b>	
A	02-04-14	GIE	ISSUED FOR CONDEMNATION APPROVAL	1110415			CHECKED BY: <b>KG</b>	DATE: <b>02-04-14</b>	ISSUED FOR CONSTRUCTION:		
B	06-18-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: <b>DPS</b>	DATE: <b>07-20-14</b>	DRAWING NUMBER: <b>26-06-85/44.84-4-0</b>	SHEET <b>4</b>	
C	07-08-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			WO: <b>1110415</b>			OF <b>5</b>	
D	07-22-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415							
O	07-29-14	GIE	APPROVED	1110415							

## DESCRIPTION FOR THE PROPOSED 40' TEMPORARY WORKSPACE

Beginning at a point in the South boundary line of the aforementioned parcel, said point being the said Point of Beginning for the Proposed 50' Permanent Easement;

Thence, N 44°39'10" E a distance of 871.74 to a point located in the division line between the lands of Stephen J. Gabaly to the West and lands of Dorothy Patachnick to the East;

Thence along said division line, S 00°04'56" W a distance of 57.00 feet to a point;

Thence through the lands of Stephen J. Gabaly, S 44°39'10" W a distance of 791.24 feet to a point in said South boundary line of said parcel of land;

Thence along said South boundary line, S 89°43'27" W a distance of 56.50 feet to the Point of Beginning containing 0.76 acre.

The 0.76 acre being part of the 0.99 acre total, as shown on Sheet 1, "Area of Temporary Workspace".

## DESCRIPTION FOR THE PROPOSED 10' TEMPORARY WORKSPACE

Beginning at a point in the South boundary line of the aforementioned parcel, said point being located S 89°43'27" W a distance of 70.62 feet from the said Point of Beginning for the Proposed 50' Permanent Easement;

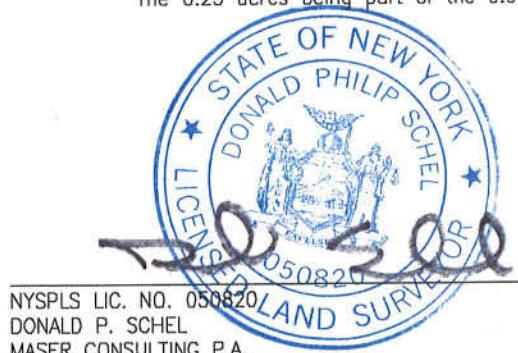
Thence continuing along said South boundary line, S 89°43'27" W a distance of 14.13 feet to a point;

Thence, N 44°39'10" E a distance of 992.50 to a point located in the division line between the lands of Stephen J. Gabaly to the West and lands of Dorothy Patachnick to the East;

Thence along said division line, S 00°04'56" W a distance of 14.25 feet to a point;

Thence through the lands of Stephen J. Gabaly, S 44°39'10" W a distance of 972.38 feet to the Point of Beginning containing 0.23 acre.

The 0.23 acres being part of the 0.99 acre total, as shown on Sheet 1, "Area of Temporary Workspace".



DATE:

7/30/14

NYSPLS LIC. NO. 050820  
DONALD P. SCHEL  
MASER CONSULTING P.A.

CONSTITUTION PIPELINE COMPANY, LLC  
PROPOSED 30" NATURAL GAS PIPELINE  
CROSSING PROPERTY OF  
STEPHEN J. GABALY  
TOWN OF AFTON  
CHENANGO COUNTY, NEW YORK



CONSTITUTION PIPELINE

DRAWING NO.			REFERENCE TITLE				CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF STEPHEN J. GABALY TOWN OF AFTON CHENANGO COUNTY, NEW YORK					
26-03-70/0001-46			ALIGNMENT SHEET									
NO.	DATE	BY	REVISION DESCRIPTION		W.O. NO.	CHK.	APP.	DRAWN BY:	GIE	DATE: 06-16-14	ISSUED FOR BID:	SCALE: NONE
A	02-04-14	GIE	ISSUED FOR CONDEMNATION APPROVAL REVISED - ISSUED FOR CONDEMNATION APPROVAL REVISED - ISSUED FOR CONDEMNATION APPROVAL REVISED - ISSUED FOR CONDEMNATION APPROVAL APPROVED	1110415	1110415			CHECKED BY:	KG	DATE: 06-18-14	ISSUED FOR CONSTRUCTION:	
B	06-18-14	GIE		1110415				APPROVED BY:	DPS	DATE: 07-28-14	DRAWING NUMBER:	26-06-85/44.84-5-0
C	07-08-14	GIE		1110415				WO:	1110415			
D	07-22-14	GIE		1110415								
E	07-29-14	GIE		1110415								